

PUBLIC NOTICE: 05-23

**NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT AND
OPPORTUNITY TO COMMENT**

AGENCY: ENVIRONMENTAL PROTECTION AGENCY (EPA)

**ACTION: NOTICE OF PROPOSED ADMINISTRATIVE PENALTY ASSESSMENT AND
OPPORTUNITY TO COMMENT**

**SUMMARY: EPA IS PROVIDING NOTICE OF A PROPOSED ADMINISTRATIVE
PENALTY ASSESSMENT FOR ALLEGED VIOLATIONS OF THE CLEAN WATER ACT.
EPA IS ALSO PROVIDING NOTICE OF OPPORTUNITY TO COMMENT ON THE
PROPOSED PENALTY ASSESSMENT.**

**UNDER 33 U.S.C. §1319(G), EPA IS AUTHORIZED TO ISSUE ORDERS
ASSESSING CIVIL PENALTIES FOR VARIOUS VIOLATIONS OF THE ACT. EPA MAY
ISSUE SUCH ORDERS AFTER THE COMMENCEMENT OF A CLASS I OR CLASS II
PENALTY PROCEEDING. EPA PROVIDES PUBLIC NOTICE OF THE PROPOSED
ASSESSMENT PURSUANT TO 33 U.S.C. §1319(G)(4)(A).**

**CLASS II PROCEEDINGS ARE CONDUCTED UNDER EPA'S "CONSOLIDATED
RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF
CIVIL PENALTIES, ISSUANCE OF COMPLIANCE OR CORRECTIVE ACTION
ORDERS AND THE REVOCATION, TERMINATION OR SUSPENSION OF PERMITS",
40 CFR PART 22. THE PROCEDURES THROUGH WHICH THE PUBLIC MAY
SUBMIT WRITTEN COMMENT ON A PROPOSED CLASS II COMPLAINT OR
PARTICIPATE IN A CLASS II PROCEEDING, AND THE PROCEDURES BY WHICH A
RESPONDENT MAY REQUEST A HEARING, ARE SET FORTH IN THE
CONSOLIDATED RULES. THE DEADLINE FOR SUBMITTING PUBLIC COMMENT
ON A PROPOSED CLASS II ORDER IS THIRTY (30) DAYS AFTER ISSUANCE OF
PUBLIC NOTICE.**

**ON THE DATE IDENTIFIED BELOW, EPA COMMENCED THE FOLLOWING
CLASS II PROCEEDING FOR THE ASSESSMENT OF PENALTIES:
IN THE MATTER OF WAL-MART STORES, INC. AND WAL MART DE PUERTO
RICO, INC. ("RESPONDENTS"), CARRETERA 1, KM. 28.7 BO. CANAS, CAGUAS,
PUERTO RICO, 00726, THE OWNERS/OPERATORS OF THE WAL MART
SUPERCENTER CONSTRUCTION SITE ON RAFAEL CORDERO AVENUE AND PR-30
IN CAGUAS PUERTO RICO, WHICH DISCHARGES TO THE JIMINEZ GARCIA
CREEK, A TRIBUTARY TO THE RIO GRANDE DE LOIZA, DOCKET NO. CWA-02-
2005-3417; FILED ON JUNE 17, 2005 WITH REGIONAL HEARING CLERK KAREN
MAPLES, U.S. EPA, REGION 2, 290 BROADWAY, 16 FLOOR, NEW YORK, NEW YORK**

10007 (212) 637-3110; THE COMPLAINT PROPOSES A PENALTY OF NO MORE THAN \$11,000 PER DAY OF VIOLATION, AND A MAXIMUM TOTAL PENALTY OF UP TO \$157,500, FOR FAILURE TO COMPLY WITH THE REQUIREMENTS OF THEIR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT FOR DISCHARGES FOR LARGE AND SMALL CONSTRUCTION ACTIVITIES (PRR100000) UNDER TRACKING NUMBER PRR10B376. RESPONDENTS FAILED TO DEVELOP AND MAINTAIN A STORM WATER POLLUTION PREVENTION PLAN, STABILIZE THE SITE WHEN CONSTRUCTION CEASED, INSPECT THE SITE AT THE PROPER FREQUENCY, MAINTAIN ADEQUATE RECORDS, AND MAINTAIN AND/OR INSTALL STORM WATER POLLUTION CONTROLS. THE COMPLAINT ALLEGES THAT THE RESPONDENTS VIOLATED THE ACT HUNDREDS OF TIMES.

FOR FURTHER INFORMATION: PERSONS WISHING TO RECEIVE A COPY OF EPA'S CONSOLIDATED RULES, REVIEW THE COMPLAINT OR OTHER DOCUMENTS FILED IN THESE PROCEEDINGS, COMMENT UPON THE PROPOSED ASSESSMENT, OR OTHERWISE PARTICIPATE IN ANY OF THE PROCEEDINGS, SHOULD CONTACT THE REGIONAL HEARING CLERK IDENTIFIED ABOVE. UNLESS OTHERWISE NOTED, THE ADMINISTRATIVE RECORD FOR THESE PROCEEDINGS IS LOCATED IN THE EPA REGIONAL OFFICE IDENTIFIED ABOVE, AND THE FILES WILL BE OPEN FOR PUBLIC INSPECTION DURING NORMAL BUSINESS HOURS. ALL INFORMATION SUBMITTED BY THE RESPONDENT IS AVAILABLE AS PART OF THE

ADMINISTRATIVE RECORD, SUBJECT TO PROVISIONS OF LAW RESTRICTING PUBLIC DISCLOSURE OF CONFIDENTIAL INFORMATION.

IN ORDER TO PROVIDE OPPORTUNITY FOR PUBLIC COMMENT, EPA WILL ISSUE NO FINAL ORDER ASSESSING A PENALTY IN THESE PROCEEDINGS PRIOR TO THIRTY (30) DAYS FROM THE DATE SPECIFIED BELOW.

DATED: 01/25/06

**DORE LAPOSTA, DIRECTOR
DIVISION OF ENFORCEMENT AND
COMPLIANCE ASSISTANCE**